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Hon. Robert Rantoul, Jr.'s Letters on the Death Penalty.

[NUMBER 1.]

To his Excellency the Governor, and to the Honorable members of the Senate and House of Representatives of the Commonwealth of Massachusetts.

Your Excellency having recommended, and your two Houses having instituted an inquiry into the expediency of reforming the laws which now regulate the DEATH PENALTY among the people for whom you are called to legislate, I propose to submit to your attention a few facts which seem to me pregnant with important inferences.

A heathen writer, whose sentiment on this subject no christian need be ashamed to repeat, Seneca, has said, *Nemo prudens punit quia peccatum est, sed ne peccetur. Revocari enim præterita non possunt; futura prohibentur.* The wise man punishes not because an offence has been committed, but that offences may cease. For the past cannot be recalled; what has not yet occurred may be prevented.

The founder of the modern science of the Philosophy of Law, the illustrious Montesquieu, has announced an axiom, which no one in the Nineteenth century will be hardy enough to gainsay. *Tout chatiment dont la necessite n'est pas absolue devient tyranique.* (*Esprit des Lois.* Published in 1748.) Every act of punishment not demanded by absolute necessity, is tyranny.

Is the DEATH PENALTY necessary; is it effectual to prevent crime? If not, it cannot be justified.

Since 1810, more than FOURTEEN HUNDRED human beings have been executed in England and Wales, for crimes which have now ceased

For no one of these crimes was the Death Penalty repealed, until facts were known and published sufficient to establish, by a perfect demonstration, that that specific crime was rendered more frequent by the then existing state of the law.

In all these changes, the beneficial effects expected and predicted, have been realized, and more than realized. In no case have the evils apprehended by those who despise the teachings of experience, followed the reform.

In reducing the capital crimes of England from 226 to 10, there were at least 15 of the crimes made non-capital, which occurred frequently enough to afford a fair test of the effect of the change. The new laws have been in operation long enough to allow us to divide the time into three equal parts, and compare each of these parts with three equal periods before the repeal. This would give nine comparisons for the state of each crime, or 135 experiments in all for the whole of England and Wales. But we may take London and Middlesex, and each of the eight circuits separately, and still have in each of these nine sections, a population more than twice as large as that of Massachusetts; large enough therefore to be worth examination. Each of these 135 experiments has therefore been tried nine times over in the subdivisions of the kingdom, making together with the comparisons of the whole aggregate, 1350 trials of the repeal of the Death Penalty, besides all those for crimes less frequent, for Scotland, and for Ireland, and for the Welsh Circuits.

So decisive are these results, that I have never heard of any Englishmen at the present time insane enough to wish to restore the bloody

rubric from which the present generation has escaped; any more than to restore those Holocausts of human sacrifices, scarcely more detestable and equally efficacious, which our British ancestors offered to Demons, when their island was invaded by Cæsar.

If the legislators of Great Britain, who, after 1810, continued so long in force a rule of Penal Law, which, like a moral Bohon Upas, poisoned and blasted the conscience of the nation, had known before hand what they now know,—that as the blood of the martyrs is the seed of the church, so the blood of the criminal becomes fruitful in the multiplication of crime, and that each one of those offences for which they then retained the now abolished Death Penalties, would be committed many times, and all in the aggregate *many hundred times* more frequently, because they persisted in trying again and again an experiment which had never been tried without a failure—if they had known all this, I say, wherein would those fourteen hundred executions have differed from fourteen hundred gratuitous murders, except that there was superadded to them all the deplorable consequences, the vast aggregate of sin and misery which they undeniably generated?

But as it was through ignorance that they obstinately kept open the flood-gates of such terrible evils, let not the sin which they should have prevented be laid to their charge, but let us study their errors only to profit by the lessons they teach us; and let us see whether there be not remaining in our own code, crimes, as to which we should do well to avoid persevering in a severity which is found to be not only ineffectual for good, but absolutely and clearly pernicious; to avoid subjecting another child of our Common Father to an ignominious death, when, so far from protecting the best interests of society by the dreadful infliction, we thereby undeniably occasion an augmentation of crime.

If there be on our statute book even one such offence, who would knowingly assume the tremendous responsibility of launching into eternity his erring brother to try once more the desperate experiment which is already decided against the destroyer?

As I live, saith the Lord God, I have no pleasure in the death of the sinner that repenteth, but rather that he should turn and live. What Christian Government would not gladly afford space for repentance to the most grievous offender, when assured that while so doing, it may protect, not only as well, but more effectually all those interests which punishment is wielded to defend?

I have already laid before the committee of the two houses, and will soon address to you in this public manner, facts which show that crime diminishes in proportion as the denunciations and administration of the criminal law are rendered milder, and the rule of a barbarous retaliation abandoned; whence I infer that it will be our duty, as it will be our happiness, to introduce and extend, until it shall pervade our whole legislation, the spirit of benevolence, compassion and sympathy, which is the spirit of heaven, and to banish from our code the spirit of malice, hatred and revenge, which is the spirit of hell. When men act consistently upon the belief which they now generally admit in theory, that the whole purpose of punishment is precautionary and not retributive, that brutal cruelty does not humanize him who suffers, him who inflicts, or him who beholds it; that after every instance in which the law violates the sanctity of human life, that life is held less sacred by the community among whom the outrage is perpetrated; that prisons are hospitals for the restraint of persons whose liberty would endanger the well-being of society, and for the remedial treatment of aggravated moral disease; then and not till then, will the frightful catalogue of crimes committed in civilized countries be curtailed as rapidly as the remaining obstacles of intemperance, ignorance, and extreme destitution, and those untamed passions which the spectacle of blood stimulates, will allow.

Your Friend and Servant,

R. RANTOUL, Jr.

Boston, Mass., Feb. 4th, 1846.

[NUMBER 2.]

When one casts his eye upon the history of crime and punishment in modern Europe, the phenomenon which first attracts his notice is the prodigality with which the Death Penalty was formerly dispensed, and the prodigious advance which a milder system of repressive policy has made during the eighteenth and the first quarter of the nineteenth centuries; and still more remarkably, during the last twenty years. As this mitigation of punishment has been tried in every part of christendom, if any evil consequences had followed from it, some one would have been able to point them out, and to tell us when, where, how, and how long the mischief mani-

fested itself. Yet among more than two hundred authors upon this subject, whose writings I have examined, I have never found but two who have seriously attempted to exhibit the evils which these successive meliorations of the law must have occasioned, if those wise men against whose indignant remonstrances these changes were effected were right in their prognostications. The two champions of blood were the authors of "Hanging not punishment enough," published in 1701, and "Thoughts on Executive Justice," published in 1785; both which works are now reprinted and distributed by the opponents of the Death Penalty, to show the absurdities into which men of great learning and talents are forced, when they attempt to vindicate the operation of the gallows.

Most of those who have regarded with favor existing death penalties, have united in the chorus of condemnation of those which have been repealed; so that no sooner is any one item stricken from the bloody catalogue, than the voices of its former defenders are silenced, and all the world seems to discover at once, that it has been practising for ages, without the shadow of a justification, a revolting cruelty.

When we propose to take further steps in the path which thus far has been found to lead us in the right direction, the class of persons who seldom admit that the world may grow wiser, raise the warning cry that we set at nought the wisdom of our ancestors. It is best to inquire then, without going back too far, what was the wisdom of the last two or three generations, in the matter of death penalties, how far have we departed from it, and what have been the consequences of that departure ?

It is quite immaterial what country we select for this investigation, as the results are every where the same. Some governments, however, afford us official data, much more complete and accurate than we can obtain elsewhere, and an argument founded on facts thus ascertained, is to be preferred, because it avoids the long controversies about the evidence of the facts advanced, to which we should otherwise be exposed. Let us first consult then the experience of the two neighboring nations of Holland and Belgium. Both have spilled blood till they sickened at the spectacle. Both have laid aside the axe at last, to rust unused or very rarely to be drawn from its depository among the other relics of a barbarious age.

In the city of Amsterdam, during the greater part of the last century, executions diminished as follows:

From 1693 to 1735	there were in	43	years	288
1736 to 1745	"	10	"	20
1746 to 1766	"	21	"	28
1776 to 1783	"	8	"	5
Total,		82		341

This table gives between four and five executions, or to be precise, 4.15 per year for the eighty-two years included in it.

But for the period ending in
1735 it gives 6.7 per year.
1745 2.
1766 1.3
1783 .6

That is, the annual number of executions was about *eleven times* as great at the begining of the eighteenth century as in the latter part of it, during the time of our revolutionary war.

Howard, the philanthropist, in 1785, speaking of Holland, says, "of late in all the seven provinces, seldom more executions in a year than from four to six."

In the Kingdom of Holland from 1831 to 1835 inclusive, five years, there were five executions, or one per year. Holland therefore had *five time* as many executions in a year, half a century before, as she had in this last period, and if the proportion was the same as in Amsterdam for the preceding periods, then she had FIFTY-FIVE times as many in a year in the period preceding 1735 as in the period preceding 1835. Were their morals better?—or their lives, their limbs, their goods safer, with fifty-five times as many executions? No! The sword dropped from the wearied hands of vindictive justice. They had learned the lesson of the French sage, *une loi rigoureuse produit des crimes*—Harsh laws, beget crimes. They had arrived, after wading through a sea of blood, to the conclusions of Bentham :—"If the legislator be desirous to inspire humanity amongst the citizens, let him set the example; let him show the utmost respect for the life of man. Sanguinary laws have a tendency to render man cruel, either by fear, by imitation, or by revenge. But laws dictated by mildness humanize the manners of a nation, and the spirit of government."

That Holland is better governed, dispensing with fifty-four parts out of the ancient death penalties, no man denies. These fifty-four parts have been abandoned not only without detriment; but with positive advantage. Is it unreasonable to suppose that the remaining fifty-fifth part is of the same deleterious nature, and might be discarded forever, with the same safety, and certain utility ?

Instead of attempting a detailed examination of the criminal statistics of Holland, which would so far as I can carry it, strengthen the general inference I have drawn, but which would, after all, be unsatisfactory and open to objection, because of the imperfection of the materials within my reach, I pass on to Belgium, where, fortunately, we have tables containing much valuable information for thirty-nine consecutive years, and of unquestionable accuracy.

Total number of criminals sentenced to death in Belgium, excluding Limbourg and Luxembourg, in each year from 1796 to 1833, inclusively, distinguishing also those condemned for murder and attempts to murder, including under the head of murder the three crimes of murder, poisoning, and parricide.

Years.	Condemned.	For murder.	Years.	Condemned.	For murder.
1796	8	7	1815	8	3
1797	27	27	1816	18	10
1798	71	31	1817	20	15
1799	60	38	1818	11	5
1800	34	14	1819	14	9
1801	90	29	1820	8	5
1802	85	38	1821	18	4
1803	86	44	1822	9	7
1804	58	25	1823	6	5
1805	25	15	1824	20	17
1806	42	17	1825	18	13
1807	38	25	1826	12	5
1808	24	6	1827	14	4
1809	23	19	1828	20	8
1810	20	10	1829	10	4
1811	30	22	1830	2	0
1812	25	15	1831	8	2
1813	30	12	1832	17	9
1814	8	5	1833	8	2
19 yrs.	784	399	19 yrs.	241	127
Per ann.	41.2	21		12 6	6 6
Executed	531			71	
Per ann.	28			3.7	

From this table it appears that during the nineteen years ending in 1814, in which were 531 executions, or 28 per annum, the number convicted of capital crimes was 784, or a little more than 41 per annum, and the number convicted of murder 399, or 21 per annum. But in the next nineteen years, when the executions were 71 only, or less than 4 per annum, the convictions were 241, or less than 13 per annum, and those for murder 127, or less than 7 per annum. So that under the unrestricted operation of severity, when executions were more than *seven* times as numerous as in the latter period, capital crimes were more than *three* times, and murders also more than *three* times as frequent.

Not only does this result follow from the table taken as a whole, but each period in which a change in the degree of severity occurs, teaches the same lesson.

The three years in which more than 50 executions occurred in each year, were followed respectively by the three years of most numerous murders:

In 1798 executions were	60
1799 condemned for murder	38
1801 executions were	76
1802 "	52
" condemned for murder,	38
1803, " "	44

These three years presenting an average of 63 executions a year, or little more than double the average of the first 19 years, were thus followed by three years of 120 murders, or 40 murders per year, about *double* the average of the period in which they are included.

The dragon's teeth sown in the judicial butcheries of 1798 & 1801 & 2, springing up in this unexampled harvest of murders in 1799 & 1802 & 3, ought to teach every government how the evil example of vengeance returns with its bloody instructions to plague the inventor.

After 1808, criminal justice became milder; the number of executions which for ten years previous had been 411, or 41 a year, was suddenly reduced to 93 in the next seven years, or 13 a year. Did this mildness encourage crime? On the contrary the table already given shows that there were not so many condemned annually *for all capital offences* during these seven years as for murder alone during the reign of blood that preceded them.

The mitigation of severity during the next period, is still more remarkable as are also its effects.

In the 10 years ending in 1824 there were 49 Ex.
In 10 " " 1834 " " 22 "

The convictions for murder diminish, as is already seen in the table, in almost as rapid proportion.

I shall show that the results from other criminal returns are similar to these.

R. RANTOUL, Jr.

Boston, Feb. 6, 1846.

[Number 3.]

Enough has been said of the experience of Belgium in abandoning Death Penalties, were it not for an objection brought forward by M. Ernst, Minister of Justice, in the Belgian Chambers in the debate of 31st January, 1835, and afterwards in his official report published at

Brussels in 1835, drawn from the results of the year 1834, which I have not yet given. The unsoundness of this objection was demonstrated in the Chambers by M. Van Brouckere, who on the 3d of February, revived his former motion to abolish the Death Penalty; by M. Ed. Ducpetiaux, Inspector General of the Prisons of Belgium, in his work on the statistics of Capital Punishment, published at Brussels in 1835, by M. Lucas, in the Revue Etrangere, 1835, p. 271; and by M. Vischers, in the critical Journal of Jurisprudence, vol VIII. No 4. p. 118.

It is also perfectly easy to refute the objection of M. Ernst, from the data furnished in his own report.

In 1834, M. Ernst states that there were *in all Belgium*, 28 Capital convictions, of which 9 were for murder, 2 for Arson, and *fifteen for dangerous larceny*. But in order to compare this year with those given in our former table, we must give the year as stated by Ducpetiaux, omitting the provinces of Limbourg and Luxembourg. It will then stand thus: condemned 23, for murder 7, Arson 2, dangerous larceny 12. Now taking these facts without the explanations which we shall give directly, what do they seem to prove? No inference can be safely drawn from a single year. If our table had stopped at 1824, it would have shown for that year the largest number of convictions and condemned for murder since 1813, and yet the averages show that they were constantly decreasing. Let us then take averages for periods of five years, and include 1834 in the last total. The first period has but four years. The effect of the executions is to be studied.

Number of criminals executed, whole number convicted of capital crimes, and whole number convicted of murder in Belgium, excluding Limbourg and Luxembourg, from 1799 to 1834 inclusive, divided as nearly as may be into eight equal periods, with the average of each class per year.

Time.	Total Conv.	Executed.	Cond. for M.	Total per Ann.	Ex. per Ann.	Cond. for M. per Ann.
4 yrs to 1799	166	137	103	41	34	26
5 " 1804	353	135	150	71	47	30
5 " 1809	152	88	82	30	18	16
5 " 1814	113	71	64	23	14	13
5 " 1819	71	26	42	14.2	5 2	8.4
5 " 1824	61	23	38	12 2	4.6	7.6
5 " 1829	74	22	34	14 8	4.4	6.8
5 " 1834	58	0	20	11.6	0.	4.
39 yrs to 1834	1048	602	533	26.9	15.4	13.7

It appears from this table that while executions increased murders increased. Executions reached their highest point in 1801 and 2, averaging for those two years 68 a year; and murders accordingly reached their highest point one year later, in 1802 and 3, averaging for those two years 41 a year. After executions declined, murders declined also, until they averaged but 4 a year, including that very year 1834 on which the supposed objection is grounded. If a diminution in the average of murders, while there were *no* executions, to *less than one tenth* the average of 1802 and 3, does not show a sufficient change, in only thirty-two years time, to warrant a favorable inference for the modern practice, it is difficult to imagine any facts, short of the cessation of crime altogether, from which such an inference might be drawn. Observe also the uniformity between the falling off in the number of executions, and in that of convictions for murder.

After the period ending in 1799, the executions *increase* 13, the convictions for murder *increase* 4. In all the following periods, they *decrease*. After

1804,	Ex. decrease, 29	Com. for mur, 14
1809,	4	3
1814,	8.8	4 6
1819,	.6	.8
1824,	.2	.8
1829,	4.4	2.8

This is not because the executions are always a certain proportion of the total convictions, or of those for murder, for such is not the case. In the first 19 years, the convictions for murder are 399, and the executions 531. In the last 20 years, the convictions for murder are 134, and the executions only 71. Of the total convicted, the proportion who escaped the Death Penalty by pardon, commutation, or otherwise, rose from about 17 to 100 *per cent.* Thus in the

4 years	ending in	1799,	17 1-2
5	"	1804,	33 1-2
5	"	1809,	42
5	"	1814,	34
5	"	1819,	63 1-3
5	"	1824,	62 1-3
5	"	1829,	70 1-4
5	"	1834,	100

As the sentences pronounced *in contumaciam;* that is to say, in the absence of the absconding criminal, are included in the tables given, our argument will not be complete unless we inquire how it is affected by deducting these. This is perhaps a fairer mode of comparison, as many of these sentences are afterwards reversed upon trial.

Without giving a table for the separate years, it is sufficient to furnish the totals for the first and second periods of 19 years:

In 19 years ending in 1814, of	784	convicts,
were convicted *in contum.*	122	
Otherwise,	662	
In 19 years ending in 1833, of	241	convicts,
were convicted *in contum.*	70	
Otherwise,	171	

Subtracting the convictions *in contumaciam*, we have only 10 condemned in 1832, instead of 17, and 7 in 1833, instead of 8.

As the extraordinary number of murders in 1799, and in 1802-3, were preceded by years of cruelty in the execution of the law, so the only years in which the number condemned for murder did not exceed *three*, excluding those *in contumaciam*, followed the years when there had been a remarkable mitigation in the use of the death penalty.

Years.	Ex.	Con. for murder.	Excluding hose con. *in contum.*
1813	23		
1814	3		
1815		3	1
1819	9		
1820	2		
1821		4	3
1825	5		
1826	2		
1827		4	3
1828	11		
1829	3		
1830	0	0	0
1831	0	2	1
1832	0		
1833	0	2	1

These six years, each following so remarkable a change from the harsher practice, have in all, nine condemned for murder, excluding the cases *n contumaciam*, or *one and a half* per annum on an average, instead of the *forty-one* per annum, which immediately followed the cruelty of 1801 and 1802.

After weighing all these facts, it may perhaps seem unnecessary to say one word in explanation of the total for the year 1834, but as they have been made the text for many comments, it is as well to understand them. Of the capital convictions for that year, *fifteen* cases are comprised in one band of robbers, organized many years before, *deja ancienne*, and tried for crimes committed long before. These cases therefore have no bearing on the argument, and might have been fairly omitted in all the reasoning on this question.

Of the *seven* cases included under the head of murder, *two* only are cases of actual murder, namely, those of *Thonus* and Dominick Nyss. The other *five* are assaults with intent to kill, a capital crime by Belgian law.

Whether capital crimes *generally*, have increased in Belgium under the milder system may be judged by the following table of the numbers of prosecutions in two periods of five years each.

Crimes.	No. of Prosecutions fm 1826 to 1830	No. of Prosecutions fm 1831 to 1834
Murd'r & Homicide,	185	169
Poisoning,	28	17
Arson,	35	28
Infanticide, Rape & forcible attempts on chastity,	108	65
Aggravated wound'g,	490	351

That *lesser* crimes increased in Belgium during these four last years, so far as it is true, strengthens the argument to be drawn from these figures.

R. RANTOUL, Jr.

Boston, Feb. 10, 1846.

[Number 4.]

Before proceeding further in our examination of the administration of criminal justice in other countries, I will furnish complete statistics of the Death Penalties in this Commonwealth since the adoption of the Contitution, Oct., 1780.

As there has been no capital conviction since the present year commenced, these tables will terminate on the 31st Dec., 1845, embracing the entire period of sixty-five years. These tables are now published for the first time; and they are the more valuable because there are none covering so long a space for any other State of our Union, or indeed for any country on the American continent.

Convictions for capital crimes in Massachusetts from 1780, Oct., to 1845 inclusive, with the result of the several cases:

Crimes.	Ex.	Died in Prison	Com.	Par.	Total
Arson,	4	0	2	0	6
Burglary,	16	0	3	2	21
Highway Robbery,	9	0	0	0	9
Robbery,	2	0	0	1	3
Murder,	23	2	7	5	37
Piracy,	1	0	0	0	1
Rape,	6	0	1	1	8
Treason,	0	0	2	14	16
	61	2	15	23	101

Of 101 convictions there have been 61 executions, or 60 *per cent.* For treason there has, fortunately, been no capital punishment, neither in this State nor in any other State of the Union; but for the other crimes included in this catalogue, the punishment has been much more

uniformly inflicted after conviction, than in most countries of the Old World. The proportion of the executions to convictions is for each offence as follows :

Piracy,	100	per cent.
Highway Robbery,	100	"
Robbery,	66	"
Or all robberies,	92	"
Burglary,	76	"
Rape,	75	"
Arson,	66	"
Murder,	62	"
Treason,	0	"
All offences,	60	"

Excluding treason, for all other offences, about 72 per cent. This stern and unrelenting rigor in the executive is not witnessed elsewhere in Christendom, certainly not in any civilized portion of it. In England, whose government we justly denounce as sanguinary, in 21 years from 1813, there were convicted for murder 877, executed 326, or 31 per cent. For arson, convicted 193, executed 81, or 42 per cent. For rape and unnatural crimes, convicted 221, executed 116, or 52 per cent. Total for the crimes just mentioned, convicted, 1291, executed 523, or 40 per cent.

In France, in eight years ending in 1832, the convictions were for murders of the different classes, highway robbery and arson, 1129, and the executions *for all crimes*, were only 537, or 47 per cent. For the next three years, the executions were but 74, or less than 25 per year, for more than thirty millions of people.

In Prussia, in 15 years ending in 1834, there were convicted for murder 162, of whom were executed 89, or 55 per cent.

In Belgium, in the 20 years ending in 1834, the convictions were, according to the tables already given, 264, executions 71, or 27 per cent. Almost the whole of these Belgian convictions were for crimes capital in Massachusetts.

In Saxony, in 20 years ending in 1835, there were 134 capital convictions for murder, arson, robbery and rape; and 36 executions, or nearly 27 per cent.

In England, France, Prussia, Belgium and Saxony, as well as many other nations that might be mentioned, where the proportion of executions to convictions is much smaller than in Massachusetts, and much smaller than fifty years ago in the same countries, murders have rapidly diminished in those countries, in which executions are scarcely known; slightly in France, where the change of policy was not so great; while in England, down to about 1835, murders and attempts to murder increased, since which, under a milder administration of the law, there has been a change for the better.

In Massachusetts, with less executive clemency than in any other state, or nation of which I have read, for the nineteenth century, murder seems to have increased. For if we divide our period of sixty-five years into three periods of twenty years each, and place by itself the last period of five years, we have the following result :

From 1780	to	1800	conv. for Mur.	7	in	20	yrs.
" 1800	"	1820	"	"	12	"	"
" 1820	"	1840	"	"	13	"	"
" 1840	"	1845	"	"	5	5	"
Or at the rate of			"	"	20	20	"

Convictions for murder, then, are about *three times as frequent* as they were fifty years ago, notwithstanding the constantly increasing difficulty in obtaining convictions, a fact felt by every one, notwithstanding greater temperance, better education, and the diminution of the crime of murder in almost every country in Christendom.

Although it has appeared, wherever the experiment has been tried, that frequent executions are followed by frequent murders, and on the contrary, when executions seldom occur, murders soon become very rare, yet so strong is prejudice, that the lesson must be a thousand times repeated before men will cease to deny its truth. Let us see then, how far our own experience corroborates the inferences drawn from the experiment of Belgium.

To obtain the total number of executions in Massachusetts, I shall add to those under the laws of the State, those within our limits under the authority of the United States, and compare the total for each five years, with the convictions for murder for the same time.

Five years.	Ex. by Mass.	Ex. by U. S.	Total Ex.	Con. for Murder.	Fifteen years.
1780 to 1785	13	0	13	2	
1785 to 1790	16	0	16	2	
1790 to 1795	3	3	6	3	7
1795 to 1800	1	0	1	0	
1800 to 1805	4	0	4	2	
1805 to 1810	3	0	3	4	6
1810 to 1815	3	1	4	4	
1815 to 1820	3	7	10	2	
1820 to 1825	6	1	7	3	9
1825 to 1830	5	1	6	6	
1830 to 1835	0	9	9	1	
1835 to 1840	3	0	3	3	10
1840 to 1845	1	0	1	5	rate 15
1780 to 1845	61	22	83	37	

The average number of executions for each period of five years is 6.4. Take then all the periods in which the executions exceeded this

average, and see whether more murders were, or were not proved to have been committed in the periods immediately succeeding. Then make also the same comparison for all those periods in which the number of executions falls below the average.

Total executions in Massachusetts in each period in which the number exceeded the average, with the conviction *for murder* for the same and for the succeeding five years.

Executions.	Convictions same five years.	Convictions next five years.
13	2	2
16	2	3
10	2	3
7	3	6
9	1	3
55	10	17
Periods which fal below the average of executions		
6	3	0
1	0	2
4	2	4
3	4	4
4	4	2
6	6	1
3	3	5
27	22	18

If in this second series, the 22 convictions had increased in the same proportion as the 10 in the first series, the result would have been 37 convictions, or *more than double* the 18 which actually occurred. But they should have increased in a much greater ratio than in the first series, if the absence of the terror of the Death Penalty multiplies murders, for the executions in the first series are 11 for every five years, while in the second series they are only 3.8 for every five years, about one third the former average.

These facts do not encourage us to persevere in the experiment of Death.

R. RANTOUL, JR.

BOSTON, Feb. 12, 1846.

[NUMBER 5.]

The facts stated in my last letter do not show that frequent executions diminish murders in Massachusetts any more than in Holland, or Belgium, or other countries.

For convenient comparison I will give the EXECUTIONS in England and Wales for 15 years ending in 1840, including the period in which the most material changes in their rubrics of blood went into operation.

Years.	Murder.	Robbery.	Burglary and house-breaking.	Arson.	Rape.	Other crimes.	Total.
1826	10	15	10	1	2	19	57
1827	11	17	10	0	2	33	73
1828	18	5	14	0	3	19	59
1829	13	12	14	3	3	29	74
1830	14	5	8	6	3	10	46
1831	12	7	5	16	4	8	52
1832	15	4	5	16	7	7	54
1833	6	8	1	9	1	8	33
1834	12	2	0	8	4	8	34
1835	21	0	1	7	0	5	34
1836	8	4	1	2	1	1	17
1837	8						8
1838	5					1	6
1839	9					1	10
1840	9						9
Total,	171	79	69	68	30	149	566

In the 5 years ending in
1830 there were 309 or 62 per annum.
1835 " 207 or 41 "
1840 " 50 or 10 "

In the 5 years ending
1830 for murder 66 or 13 per annum.
1835 " 66 or 13 "
1840 " 39 or 8 "

Certainly this change is sufficiently great and sudden to furnish the fairest possible test of its effects.

Let us examine its effects then, first on the crime of murder; and as the milder system was first tried in London and Middlesex, we will first record the result of that experiment.

The first dawning of Mercy towards the convicted murderer, in London and Middlesex, was in 1827. For sixteen years, no convicted murderer had been spared; for the next sixteen years, 37 per cent were spared. Did the cruelty diminish, or the mercy increase the murders committed?

Number, committed, convicted, and executed in London and Middlesex, in 16 years, ending in 1826, and in 1842, for the crime of MURDER.

Commit'd, 16 yrs to 1826, 188, 16 yrs to 1842, 90
Convicted, " " " 34 " " " 27
Executed, " " " 34 " " " 17
Of convicti's were execut. 100 per cent. do 63
Of Com'tls were convict'd 18 " " do 30

When all convicted were executed, only 18 per cent. of those committed could be convicted, and there were 188 committed. When only 63 per cent were executed, 30 per cent. of those arrested were convicted, and the committals sank to 90, whereas had they increased in proportion to the population, they would have amounted to about 250.

In Massachusetts we have executed 62 per cent of those convicted, and have convicted about 20 per cent of those *indicted*, which is less than 18 per cent. of those *committed*, as many murderers are indicted for manslaughter. Our jurors have a greater horror of the Death Penalty than those of London and Middlesex.

Capital crimes generally did not increase in London and Middlesex, when executions ceased there after 1833, nor in the intermediate period while they were so rapidly diminishing.

Interrogate experience as you will, and you still receive the same answer—the answer never at variance with the voice of humanity. The proportion of convictions increases as you abandon an inhuman punishment: and punishment is efficient to prevent crime, much rather in proportion to the certainty of its infliction, than the degree of its severity.

London and Middlesex—offences capital in 1828 & 1829.

1828 & 1829 Ex. 46. Com. 679. Con. 299 or 44 per ct.
1834 & 1835 " none " 543 " 352 or 65 per ct.

The per centage of convictions had increased from 44 to 65 per cent, a sufficient reason why the committals should fall off 136, or 20 per cent of the whole number, in only six years time, and *while all other crimes had increased about twenty-five per cent!*

Trace the progress of this suppression of crimes; study its course in this and the thousand other instances within your reach, from which I am offering but a scanty selection, and see how crime disappears before the majesty of the law, just so soon as reason and humanity resume their empire in the administration of the law.

London and Middlesex—offences capital in 1828 and 1829.

Three years ending Dec.

1830	Executed 53	Committals	960
1833	" 12	"	896
1836	" none	"	823

If crimes had increased from the first period only as fast as population, we should have added about 100 to the 960 then given. If these crimes had increased as fast as crimes not capital during the same time, we should have added about 200 to the same number. Instead of which, the committals have fallen off 137, and if we consider the greater readiness to inform, and to arrest where the punishment is moderate, we cannot doubt that the crimes actually committed had fallen off in a much greater ratio than the committals for trial.

It will be seen from the table that the executions for other crimes than murder were much fewer after 1833 than before it, so that this dividing point affords a test to measure the effect of Death Penalties on capital crimes generally, which *down to* 1833 *had been very rapidly increasing*.

Persons executed for *other crimes than murder*, with total committals for crimes capital in 1828 and 9, in England and Wales,

5 years ending Dec. 1833, Ex. 199, Com. 11,982
5 " " " 1838, " 45, " 11,332

With less than one fourth the executions for other crimes than murder, the committals for crimes capital at the commencement of this period, fell off 650 instead of increasing as they should have done to keep pace with population 900 or 1000. Allowing for increase of population, these crimes therefore diminished about 1600, or over 13 per cent, while other crimes increased much faster than population.

For murder, the table shows that there had been no material mitigation of severity until after 1835, the two years 1834 and 1835 having a greater average of executions for murder than any other two years in the table. Afterwards they fell to half that average and *the uniform*, the inevitable effect follows:

Murder—England and Wales.

Three years ending Dec.

1835	Executed 39	Committed	216
1838	" 21	"	191

But the full effect of such a change is hardly felt under an interval of a year from its occurrence, examine then the comparison from the close of the year 1836.

As all experience shows that frequent executions foster the propensity to murder, I add the total of execution for all offences.

Number committed and executed for murder, and total of executions in England and Wales, for four periods of six years each.

	Comm.	Ex.	Total.
Six years ending Dec 1824,	407	91	529
" " 1830,	411	75	358
" " 1836,	413	74	234
" " 1842,	351	50	52

A falling off in the last six years of 62 committals for murder, or about 15 per cent. of the whole number.

As it is now perfectly well established that the private "avenger" stays his hand the more readily when the law ceases to deal out vengeance, and that the subject reveres God's image in his fellow man the more devoutly when the law displays no longer to his view its wholesale slaughters; as it is proved that we need not violate the Divine command—THOU SHALT NOT KILL, in order to protect society against the increase of crime; nay that the blood we shed will but cause the shedding of more blood, in an endless vicious progression, is it not natural to pause,

low creatures is a speactacle of so great a moral beauty, such an exercise of the finer feelings of nature, that society must provide for its occasional exhibition, a *choice* and *private* exhibition, now, even at the expense of the infinite evils which flow from it, as implicitly as crime begets crime?

R. RANTOUL, JR.

BOSTON, Feb. 14, 1846.

[NUMBER 6.]

I have given already strong evidence of the immediate influence produced in the diminution of the crime of MURDER, as well as all other capital crimes, wherever a milder punishment is substituted for the Death Penalty.

I know the question which must naturally arise in the mind of any one unacquainted with the criminal statistics of the Old World, as he reads these letters. He will ask whether the progress of education and civilization during the present century have not tended to banish crime, and especially the most aggravated classes of crimes, from among a cultivated and christian people, like the subjects of the British Empire. I am sorry to say the progress has been all in the contrary direction. The frightful rush into criminal courses, demonstrated by the annual returns is almost too amazing for belief, too awful for contemplation. How much more decisive, then, is the evidence afforded by the few exceptions to this general augmentation of crime, in the cases of the repeal of the Death Penalties. To see how general is this augmentation, first measure the growth of crime in the United Kingdom.

Committals for serious crime in the United Kingdom with the ratio to the population at several periods.

Years.	England and Wales.	Scotland.	Ireland.	Total.	Population.	Ratio 1 to
1805	4605	89	3500	8294	15.800,000	1907
1819	14254	1380	13251	28885	20.600,000	713
1830	18107	2603	15794	36504	23,927,407	650
1834	22451	2711	21881	46543	24,912,170	537
1842	31309	3884	21352	56545	27,031,100	478

In 1805 there was one committal to every 1907 inhabitants, and in 1842, one to every 478 inhabitants; in other words, in 37 years crime had QUADRUPLED in proportion to population. eight years in this table as rapidly as it did in England and Wales, the last total would have been about 65,000 and the ratio to population 1 to 416. But Ireland, which had increased in crime much more rapidly than England and Wales from 1805 down to 1834, has been operated upon by very different influences since 1834, and the crimes for 1842 are less than those for 1834, and the average for 1840, 1841 and 1842 is 165 per annum less than that for 1834, 1835 and 1836. Severity had been tried in Ireland until the rod of justice was broken in her hands. Death, and the severest forms of punishment next to death, were dealt out more lavishly in Ireland than in England, Wales or Scotland, and the consequeuce was an impossibility to convict. Take the first four years of the returns as an example.

Committals and Convictions in Ireland from 1805.

1805	Committals	3,600	Convictions	609
1806	"	3,781	"	643
1807	"	3,522	"	608
1808	"	3,704	"	668
Total for 4 years,		14,607	"	2 528 or 17 [1-3 per ct.

Only 17 1-3 per cent. could be convicted, while the number of crimes actually perpetrated was undoubtedly greater than that of the committals. What is this but the successful struggle of the best instincts of a great nation against the detestable cruelty of their government; a struggle which however reduces the forms of justice, in four cases out of five, to a mere unmeaning mockery. Notwithstanding this practical impunity, thus resulting, as it always does, from an intolerable severity, the experiment of cruelty, so far as the Death Penalty is concerned, was continued down to 1834, after which a milder system begins.

Recollect that the population of Ireland is about half that of England and Wales, and then compare the numbers.

Executions in England and Wales, compared with those in Ireland.

	England & Wales.	Ireland.	Total.
1822	97	101	198
1823	54	61	115
1824	49	60	109
Total of 3 years,	200	222	422

Take then the period ten years later, during which the milder system began to be tried for other crimes than murder.

	England & Wales.	Ireland.	Total.
1832	54	39	93
1833	33	39	72
1834	34	43	77
Total of 3 years,	121	121	242

I have shown in former letters, the failure and [illegible] abandonment of the experiment of cru-

elty in England, as well as in Holland and Belgium. Let us see where the experiment of still greater cruelty left Ireland, just before the change of the system there commenced, a change prompted by the noblest motives, and crowned with triumphant success.

From 1805 to 1834, twenty-nine years only, crime in England and Wales increased 387 per cent.; but in Ireland during the same period, crime increased 494 per cent. But if we take our starting point four years later, in 1809 and reckon to 1836, twenty-seven years only, crime had increased in Ireland 556 per cent. A similar increase for twenty-seven years longer would give about *one hundred and sixty-thousand* criminals in Ireland in 1863, and reduce the whole island to the condition of Sodom and Gomorrah by the close of the century. While Ireland was thus rushing towards her destruction with the swiftness and force of this torrent of crime, the action of that great conservative engine, the gallows, was suddenly checked, its restraining and purifying influences were almost wholly withdrawn from this unhappy people, who, for more than three hundred years, had enjoyed the perpetual presence of the hangman in a richer measure than almost any other people, either in or out of Christendom. What then followed the loss of that salutary dread, which to the cannibal imaginations of such as still worship Moloch enshrined in the temple of justice, seems the only sure preventive of crime? "The corner stone of the moral government of the world" was shaken almost out of its place, and can we not trace the sad effects of this appalling calamity?

Executions in England and Wales compared with those in Ireland, since the mitigation.

1835	England & Wales	34	Ireland	27	Total	61
1836	" "	17		14	"	31
1837	" "	8		10	"	18
1838	" "	6		3	"	9
1839	" "	10		17	"	27
1840	" "	9		0	"	9
1841	" "	10		5	"	15
Total of seven years,		94		76		170

Was Ireland better governed in 1822, with 101 executions, than in 1840 with *none?* In 1822, with but little more than half the population of England, she had a larger list of crimes than England. In 1835, the lists are nearly equal. Since 1840, mark the difference.

	Committals in England and Wales.	Committals in Ireland.
In 1822	12,241	15,251
1835	20,731	21,205
1840	27,187	23,833
1841	27,760	20,796
1842	31,309	21,352

The total number of crimes, however, affords but a faint idea of the condition of Ireland under the reign of terror. The capital crimes, and those for which death was ordinarily inflicted, when convictions could be obtained, were far more numerous in proportion to those of England, than those not capital.

In 1832, there were in Ireland,	
Homicides,	242
Robberies,	1179
Burglaries,	401
Malicious burnings,	568
Firing with intent to kill,	328
Felonious attacks on houses,	723
In all,	2441

besides many other atrocious crimes not comprehended in these classes. Since 1834, crime has diminished, and atrocious crimes much more rapidly than lesser offences.

Not the hangman and the halter, but Father Matthew with his temperance medals has done this. Not by buildnig scaffolds, prisons, transport ships, and pillories, but by shutting up the distilleries, the grog-shops, bar-rooms, alehouses, those manufactories of murder, arson, rape, and robbery, as well as of all other crime and misery, has this blessed reformation been thus far accomplished.

While crime diminished in Ireland from 1834 to 1842, in England and Wales the committals increased 8,858 or 39 1-2 per cent, and in Scotland 1173 or 43 per cent, in the same eight years.

While this terrible march of crime thus overruns the kingdom, no sooner is a Death Penalty repealed, than the crime for which that penalty had been denounced is suddenly arrested in its progress, while all other crimes continue to advance as before.

The capital crimes created by statute bear date as follows:

There were 4 made capital under the			Plantagenets.
27	"	"	Tudors.
26	"	"	Stuarts.
156	"	"	House of Brunswick.

More crimes were denounced as capital during the reign of George III. than in the reigns of all the Plantagenets, Tudors, and Stuarts combined together.

The advance of crime was never so rapid as in the latter part of the reign of Geore III. In 1814 the committals in England and Wales were 6,390, and in 1817 they were 13,932. They had more than doubled in three years! There is nothing like this in the history of Ireland.

The Death Penalty for coining was repealed 23 May, 1832, for horse stealing, sheep stealing, cattle stealing, larceny in dwellings, (£5) 11 July, 1832; forgery and uttering, &c., 16 Aug., 1832, and house-breaking, 14 Aug., 1833. For these offences, in the four years and [illegible]

there had been condemned to Death 3,786 persons, of whom 66 were executed.

Let us divide crimes into three classes, and compare those from which the Death Penalty had just been removed, first, with those which were previously *non*-capital, second, with those which still continued to be capital.

First, *non*-capital offences.

In three years.	Commitments.
1827 1828 1829	46,833
1830 1831 1832	51,623
1833 1834 1835	51,701

Here the committments *rose* 4,868, or more than *ten* per cent in *six* years.

Second—Offences for which Death Penalties continued.

In three years.	Commitments.	Executions.
1827 1828 1829	1,705	108
1830 1831 1832	2,236	120
1833 1834 1835	2,247	102

Here again the commitments *rose* 542, or about *thirty-two* per cent, in defiance of the executions, in *six* years.

Third—Offences, before named, in which Death Penalties, were repealed in 1832-33, including burglary with house-breaking, because it was so often indicted as house-breaking.

In three years.	Commitments.	Executions.
1827 1828 1829	4,622	96
1830 1831 1832	4,724	23
1833 1834 1835	4,292	2

In this class alone the commitments *fell* 432, on about *nine* per cent. in the last *three* years.

Does this change arise from any peculiarity of the crimes selected for the repeal of the Death Penalty? No, for so fast as other crimes are selected for the same experiment, the same result follows; and this too, whether the mitigation be by a repeal of the law or by an almost total disuse of the Penalty.

ENGLAND AND WALES.

Robbery.—Mitigation commencing in 1834.

	Executed.	Committals.
Five years ending Dec. 1833,	36	1949
" " " 1838,	5	1634

Attempts to Murder, &c.—Mitigation commencing in 1835.

	Executed.	Committals.
Four years ending Dec. 1834,	14	520
" " " 1838,	4	528

To have borne the same proportion to population, the last number should have been 551 instead of 528.

Capital Assaults on Females.—Mitigation commencing in 1835.

	Executed.	Committals.
Four years ending Dec. 1834,	16	222
" " " 1838,	1	223

To have kept up the same ratio to population, the last number should have been 235 instead of 223.

Arson.—Mitigation commencing in 1837.

	Executed.	Committals.
Two years ending Dec 1836	9	148
" " " 1838	0	86

Take also longer periods for three of the crimes included in the former table—Horse Stealing, Burglary and Forgery.

Horse Stealing.—Mitigation commencing 1830.

	Executed.	Committals.
Nine years ending Dec 1829	46	1626
" " 1838	0	1565

Burglary and House Breaking.—Mitigation commencing 1833.

	Executed.	Committals.
Six years ending Dec 1832	56	5199
" " 1838	3	4621

Forgery.—Mitigation commencing 1830.

	Executed.	Committals.
Ten years ending Dec 1829	64	746
" " 1839	0	731

For these seven crimes in the periods named, there were, before the mitigation,

	Executed.	Committals.
	241	10,410
In the same time after the mitigation,	13	9,388
A falling off in the committals of nearly ten per cent.		1,022

In January, 1835, I proposed to repeal the Death Penalty in Massachusetts, and in the debate which followed, argued on general principles the certainty of results like these. Experience now confirms what then was called theory.

R. RANTOUL, JR.

BOSTON, Feb. 17, 1846.